

STEPHANIE YONEKURA  
Acting United States Attorney  
ROBERT E. DUGDALE  
Assistant United States Attorney  
Chief, Criminal Division  
KIMBERLY D. JAIMEZ (Cal. Bar No. 271235)  
VANESSA BAEHR-JONES (Cal. Bar No. 281715)  
Assistant United States Attorney  
General Crimes Section  
1400 United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012  
Telephone: (213) 894-3779  
Facsimile: (213) 894-0142  
E-mail: kimberly.jaimez@usdoj.gov

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TEOFIL BRANK,

Defendant.

CR No. 15-0131(A)-JFW

STIPULATION REGARDING REQUEST FOR  
(1) CONTINUANCE OF TRIAL DATE AND  
(2) FINDINGS OF EXCLUDABLE TIME  
PERIODS PURSUANT TO SPEEDY TRIAL  
ACT

**CURRENT TRIAL DATE: 5-19-15**  
**[PROPOSED TRIAL DATE]: 7-7-15**

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorney Kimberly D. Jaimez and Vanessa Baehr-Jones, and defendant TEOFIL BRANK, both individually and by and through his counsel of record, Deputy Federal Public Defenders Seema Ahmad and Ashfaq G. Chowdhury, hereby stipulate as follows:

1           1.     The Indictment in this case was filed on March 20, 2015.  
2 Defendant first appeared before a judicial officer of the court in  
3 which the charges in this case were pending on March 6, 2015. The  
4 Speedy Trial Act, 18 U.S.C. § 3161, originally required that the  
5 trial commence on or before May 29, 2015.

6           2.     On March 27, 2015, the Court set a trial date of May 12,  
7 2015, a status conference date of May 4, 2015, and a motion schedule  
8 as follows: motions to be filed on or before April 16, 2015;  
9 oppositions to be filed on or before April 27, 2015; replies, if any,  
10 to be filed on or before April 30, 2015; and the hearing on motions  
11 (and a status conference) to be held on May 4, 2015, at 9:00 a.m.

12           3.     Defendant is detained pending trial. The parties estimate  
13 that the trial in this matter will last approximately three days.

14           4.     By this stipulation, defendant moves to continue the trial  
15 date to July 7, 2015. Further, the parties request the following  
16 briefing and hearing schedule: motions (other than motions in  
17 limine) to be filed on or before May 15, 2015; oppositions to be  
18 filed on or before May 29, 2015; replies, if any, to be filed on or  
19 before June 5, 2015; and the hearing on motions and the interim  
20 status conference to be held on June 18, 2015, at 9:00 a.m. (or at a  
21 time convenient to the Court); joint motions in limine to be filed by  
22 June 19, 2015; and the hearing on the motions in limine and the final  
23 status conference to be held on June 26, 2015, at 9:00 a.m. (or at a  
24 time convenient to the Court). This is the first request for a  
25 continuance.

26           5.     This Court held a status conference in this matter on May  
27 8, 2015. At that conference, at the request of defendant, the Court  
28 granted a continuance of the trial date and ordered the parties to

1 meet and confer with respect to the continued trial date and briefing  
2 schedule. The aforementioned schedule is the result of such  
3 conference and mutual agreement of the parties.

4 6. The parties request the continuance based upon the  
5 following facts, which they believe demonstrate good cause to support  
6 the appropriate findings under the Speedy Trial Act and which  
7 supplement the findings made by the Court at the status conference:

8 a. Defendant is charged in a seven-count first  
9 superseding indictment with transmitting threatening communications  
10 with intent to extort, in violation of 18 U.S.C. § 875(d); extortion  
11 and attempted extortion affecting interstate commerce by nonviolent  
12 threat, in violation of 18 U.S.C. § 1951(a); receiving proceeds of  
13 extortion, in violation of 18 U.S.C. § 880; use of an interstate  
14 facility to facilitate an unlawful activity, in violation of 18  
15 U.S.C. § 1952(a)(3); and possession of a firearm in furtherance of a  
16 crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(i). The  
17 government has produced discovery to the defense, including 3423  
18 pages of written reports and records, five audio recordings, three  
19 video recordings, and two discs containing cellphone digital files.

20 b. Defense counsel Deputy Federal Public Defender Ashfaq  
21 G. Chowdhury is presently scheduled to report for jury duty during  
22 the week of June 8, 2015. Accordingly, defense counsel represent  
23 that they will not be available to try this case during the week of  
24 June 8, 2015.

25 c. In light of the foregoing, counsel for defendant also  
26 represent that additional time through July 7, 2015, is necessary to  
27 confer with defendant regarding the new counts in the first  
28 superseding indictment, conduct and complete an independent

1 investigation of the case, conduct and complete additional legal  
2 research including for potential pre-trial motions related to the  
3 first superseding indictment, review the discovery and potential  
4 evidence in the case, and prepare for trial in the event that a  
5 pretrial resolution does not occur. Defense counsel represent that  
6 failure to grant the continuance would deny them reasonable time  
7 necessary for effective preparation, taking into account the exercise  
8 of due diligence.

9 d. On May 2, 2015, defendant filed the Motion to Dismiss  
10 Case (Superseding Indictment filed on May 1, 2015) (Dkt. No. 62).  
11 The Court denied the motion on May 7, 2015, in the Order Denying  
12 Defendant's Motion to Dismiss Superseding Indictment (Dkt. No. 88).

13 e. On May 8, 2015, defendant filed the Motion to Dismiss  
14 Count Seven of the First Superseding Indictment (Dkt. No. 97). On  
15 May 15, 2015, defendant filed the Motion to Suppress Evidence and  
16 noticed a hearing date of June 18, 2015 (Dkt. No. 117).

17 f. Defense counsel has spoken to their client about the  
18 client's rights under the Speedy Trial Act, the client understands  
19 those rights as well as the ramifications of requesting a  
20 continuance, but the client does not wish to waive his rights.  
21 Nonetheless, defense counsel believes that the additional time  
22 requested is necessary in order to effectively represent their client  
23 and adequately prepare for trial. In light of the foregoing, counsel  
24 for the defendant represents that a failure to grant the requested  
25 continuance would deny them reasonable time necessary for effective  
26 preparation, taking into account the exercise of due diligence.

27 g. The government does not object to the continuance.  
28

1           h.     The requested continuance is not based on congestion  
2 of the Court's calendar, lack of diligent preparation on the part of  
3 the attorney for the government or the defense, or failure on the  
4 part of the attorney for the Government to obtain available  
5 witnesses.

6           7.     For purposes of computing the date under the Speedy Trial  
7 Act by which defendant's trial must commence, the parties agree that  
8 the time period of May 2, 2015 to July 7, 2015, inclusive, should be  
9 excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i) and  
10 (h)(7)(B)(iv) because the delay results from a continuance granted by  
11 the Court at defendant's request, without government objection, on  
12 the basis of the Court's finding that: (i) the ends of justice served  
13 by the continuance outweigh the best interest of the public and  
14 defendant in a speedy trial; (ii) failure to grant the continuance  
15 would be likely to make a continuation of the proceeding impossible,  
16 or result in a miscarriage of justice; and (iii) failure to grant the  
17 continuance would unreasonably deny defendant continuity of counsel  
18 and would deny defense counsel the reasonable time necessary for  
19 effective preparation, taking into account the exercise of due  
20 diligence.

21           8.     In addition, the parties agree that the time period of May  
22 2, 2015 to June 18, 2015 (i.e., the motion hearing date), inclusive,  
23 should be excluded pursuant to 18 U.S.C. § 3161(h)(1)(D), because it  
24 constitutes a delay resulting from the pretrial motions to dismiss.

25           9.     Nothing in this stipulation shall preclude a finding that  
26 other provisions of the Speedy Trial Act dictate that additional time  
27 periods be excluded from the period within which trial must commence.  
28 Moreover, the same provisions and/or other provisions of the Speedy

1 Trial Act may in the future authorize the exclusion of additional  
2 time periods from the period within which trial must commence.

3 IT IS SO STIPULATED.

4 Dated: May 18, 2015

Respectfully submitted,

5 STEPHANIE YONEKURA  
Acting United States Attorney

6 ROBERT E. DUGDALE  
7 Assistant United States Attorney  
Chief, Criminal Division

8  
9 /s/  
KIMBERLY D. JAIMEZ  
10 VANESSA BAEHR-JONES  
Assistant United States Attorney

11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA

13 Dated: May 18, 2015

14 /s/ [with permission]  
SEEMA AHMAD  
15 ASHFAQ G. CHOWDHURY  
Deputy Federal Public Defenders

16 Attorneys for Defendant  
17 TEOFIL BRANK  
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